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FEB 28 1945

CHARLES ELMORE CROPLEY
CLERK

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 976

JOHNNY J. JONES,

Appellant,

vs.

M. GARY WHITTLE, AS SHERIFF OF RICHMOND COUNTY, GEORGIA

Appellee

APPEAL FROM THE SUPREME COURT OF GEORGIA

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS

And now comes M. Gary Whittle, as sheriff of Richmond County, Georgia, and pursuant to Rule 12, par. 3 of Rules of Supreme Court of the United States, files this his statement against the jurisdiction of the Supreme Court of the United States, and this his motion to dismiss the appeal in this cause, for grounds thereof alleging:

(1) The Supreme Court of Georgia has not passed upon any Federal question in this case.

(2) The Supreme Court of Georgia has decided the case upon non-Federal grounds adequate to sustain its decision, holding that under Georgia law Jones is not entitled to be discharged upon habeas corpus irrespective of whether the power to grant him pardon or parole is now lodged in the Governor of Georgia or the Board of Pardons and Paroles. *Adams* v. *Russell, Warden,* 229 U. S. 353, 57 L. ed. 1225; *People* v. *Atwell,* 261 U. S. 590, 67 L. ed. 814; *McCoy* v. *Shaw,* 277 U. S. 302, 78 L. ed. 891.

Wherefore, it is prayed that the appeal be dismissed.

E. E. Andrews,
Sol. Gen'l,

Durwood T. Pye,
Asst. Sol. Gen'l,

Reuben A. Garland,
Attorneys for M. Gary Whittle, as Sheriff of Richmond County, Georgia.

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